

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

CARL C. FOSTER,

Plaintiff,

v.

Case No. 2:20-cv-00093

ANDREW SAUL,

Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Omar J. Aboulhosn, United States Magistrate Judge, who, on August 12, 2020, submitted his Proposed Findings and Recommendations ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) (ECF No. 21). In the PF&R, the Magistrate Judge recommends that the court deny the pro se plaintiff's request to reverse the Commissioner's decision (ECF No. 19), grant the defendant's request to affirm the decision of the Commissioner (ECF No. 20), affirm the final decision of the Commissioner, and dismiss this action from the court's docket. See ECF No. 21.

On August 24, 2020, the plaintiff timely filed his objections to the PF&R (ECF No. 22). He argues that, because

the Magistrate Judge's analysis ultimately agreed with defendant's analysis, the PF&R calls into doubt the Magistrate Judge's impartiality and competence. See ECF No. 22. The plaintiff also appears to complain that the Magistrate Judge relied on the administrative record instead of conducting his own independent investigation of the plaintiff's medical history. See id. Lastly, the plaintiff appears to reiterate the argument he raised with the Magistrate Judge that the Commissioner's 2008 decision to award him disability benefits, which ceased in 2015 after the Commissioner found the plaintiff was no longer disabled, should be given conclusive effect in this matter. See id.

Upon an objection, the court reviews a PF&R de novo. Specifically, "[t]he Federal Magistrates Act requires a district court to 'make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made.'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis in original) (quoting 28 U.S.C. § 636(b)(1)).

Upon de novo review, the court concludes that the plaintiff's objections are meritless. The mere fact that a magistrate judge agrees or disagrees with a party after

considering the merits of a matter is not a basis for disqualifying him or for rejecting his recommendation. See Liteky v. United States, 510 U.S. 540, 555 (1994). Further, magistrate judges may not conduct an independent investigation into a plaintiff's medical condition to determine disability. See Thomas v. Comm'r, 24 F. App'x 158, 162 (4th Cir. 2001) ("It has long been settled that 'reviewing courts are restricted to the administrative record in performing their limited function of determining whether the [Commissioner]'s decision is supported by substantial evidence.'" (brackets omitted) (quoting Wilkins v. Secretary, DDHS, 953 F.2d 93, 96 (4th Cir. 1991) (en banc))). Finally, for the reasons stated in the PF&R, the court agrees with the Magistrate Judge that the Commissioner's 2008 favorable decision is not conclusive for purposes of assessing the Commissioner's decision in this matter. See ECF No. 21 at 16 n.5.

Accordingly, it is ORDERED that:

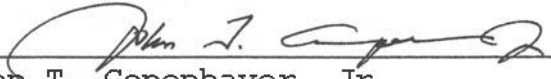
1. the Magistrate Judge's PF&R (ECF No. 21) be, and it hereby is, adopted and incorporated herein;
2. the plaintiff's objections (ECF No. 22) be, and hereby they are, overruled;
3. the plaintiff's request to reverse the Commissioner's decision (ECF No. 19) be, and

hereby it is, denied;

4. the defendant's request to affirm the final decision of the Commissioner (ECF No. 20) be, and hereby it is, granted;
5. the final decision of the Commissioner be, and hereby it is, affirmed; and
6. this action be, and it hereby is, dismissed and stricken from the court's docket.

The Clerk is directed to transmit copies of this memorandum opinion and order to the pro se plaintiff, all counsel of record, and any other unrepresented parties.

ENTER: February 8, 2021

  
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John T. Copenhaver, Jr.  
Senior United States District Judge